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UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

2007 OCT 17 AM 11:39

ADR Daotang Yang
21073 Red Fir Ct
Cupertino, CA 95014

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

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Plaintiff,

v.

Case No.:

C07 05277 HRL

Michael Chertoff
U. S. Department of Homeland Security
Office of the General Counsel
U. S. Department of Homeland Security
Washington, D.C. 20258

Judge:

Dr. Emilio T. Gonzalez, Director
U. S. Citizenship and Immigration Services
425 Eye St. NW
Washington D.C. 20536

Gerald Heinauer, Director
Nebraska Service Center
U. S. Citizenship and Immigration Services
850 S Street
Lincoln, NE 68508

Peter D. Keisler,
Acting Attorney General
U. S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

Defendants.

COMPLAINT FOR MANDAMUS AND INJUNCTIVE RELIEF

Petitioner / Plaintiff, Daotang Yang, Pro Se, presents instant Complaint before this Honorable Court requesting relief against the Defendants for their actions and for their failure to act on the Petitioner's application for permanent residence in accordance with law.

I. INTRODUCTION

1. This is a petition for a statutory relief pursuant to law including US Constitution, Mandamus Act (28 U.S.C. § 1361), Declaratory Judgment Act (28 U.S.C. § 2201), and the Administrative Procedures Act (5 U.S.C. § 551 et seq.) This action challenges the unreasonable delay in adjudicating of Plaintiff's employment-based Adjustment Of Status (AOS) Application (I-485 form) pending before California and Nebraska Service Center of the United States Citizenship and Immigration Services (USCIS) since July 28, 2005.

II. JURISDICTION

2. This Court has subject matter jurisdiction over this petition under 28 U.S.C. § 1331 (Federal question statute) since this is a civil action arising under the Constitution and the laws of the United states, including the Fifth Amendment to the U.S. Constitution, provisions of Title 8 U.S.C. § 1101 et seq. (Immigration and Nationality Act, INA) and applicable regulations, policies and procedures arising thereunder. This Court may grant relief in this action under 28 U.S.C. § 1361

(Mandamus Act); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory Judgment Act); and under 5 U.S.C. § 701 et seq. (Administrative Procedures Act).

3. There are no administrative remedies available to Petitioner to redress the grievances described herein. This action challenges only the Respondents' timeliness in adjudication of AOS petition, not the granting or denial of petition, therefore the jurisdictional limitations of 8 U.S.C. § 1252 do not apply.

III. VENUE

4. Pursuant to 28 U.S.C. § 1391(e) venue is proper in this judicial district, because Defendants operate within this district and plaintiff resides in this district.

IV. PARTIES

5. Petitioner Daotang Yang is a native and citizen of China. Daotang Yang is a Software Engineer by profession working for Brocade Communications Inc located in San Jose CA. Petitioner originally entered the United States as a graduate student in Jan 1998 to attend the Southern Methodist University at Dallas, TX. After graduating from Southern Methodist University with a Master of Science degree in Computer Science in 2000, Daotang Yang worked as a Software Engineer for Cisco Systems, San Jose CA and obtained an H-1B professional visa. After that Daotang Yang started to work for Brocade Communications Inc, San Jose CA in 2001. On July 28 2005 Brocade filed an immigrant visa petition on Daotang Yang's behalf which was approved in September, 2005. At the same time, on July 28 2005 Daotang Yang filed an application for Adjustment Of Status (AOS) to become a permanent resident of the United States with the California Service Center of USCIS, the application was transferred to Nebraska Service Center in March 2007.

This application is still pending. Daotang Yang appears before this honorable court in his own behalf as an individual.

6. Respondent Dr. Emilio T. Gonzalez is the Director of the U. S. Citizenship and Immigration Services. Pursuant *inter alia*, to 8 U.S.C. § 1103, he is charged with, among other matters, administering the USCIS by implementing and enforcing the Immigration and Nationality Act. As such, he is ultimate decision-making authority over the matters alleged in this Complaint.

7. Respondent Gerald Heinauer is the Director of the Nebraska Service Center of USCIS of the DHS. In his capacity as the Director of the Nebraska Service Center, USCIS, Mr. Heinauer is responsible for the administration of immigration benefits and services including the processing of employment-based immigration petitions. As such, he has decision-making authority over the matters alleged in this Complaint.

8. Respondent Peter D. Keisler is the Acting Attorney General of the United States. Pursuant, *inter alia*, to 8 U.S.C. § 1103, he is charged with controlling determination of all issues of law pertaining to immigration and with representing the United States of America in various legal matters.

V. STATEMENT OF FACTS

9. Petitioner, Daotang Yang, submitted AOS application to become permanent residents of the United States with California Service Center of USCIS on July 28, 2005. USCIS acknowledgement documents are attached hereto as

Exhibit A. The application was transferred to Nebraska Service Center on March 7, 2007. The transfer notice is attached hereto as **Exhibit A.**

10. Petitioner is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

11. Petitioner's employment-based AOS application was filed along with immigrant petition for alien worker under INA 8 U.S.C. § 203(b) (2) Mem of Profession w/Advanced Degree, or of Exceptional Ability which was approved in September 2005. Approval notice is provided in **Exhibit A.**

12. An immigrant visa was immediately available to the Petitioner at the time of AOS application was filed.

13. An immigrant visa is immediately available to the Petitioner at the time of filing this Complaint.

14. Following the submission of AOS application, Petitioner was requested to provide and actually provided fingerprints for security checks on June 2, 2006.

15. USCIS publishes processing dates every month online at: <https://egov.uscis.gov/cris/jsp/Processtimes.jsp?SeviceCenter=NSC>. Nebraska Service Center is currently processing AOS applications (form I-485) filed on December 19, 2006 (**Exhibit A**) while Petitioner submitted his application in July 2005, *17 months earlier* than current published processing time.

16. Concerned about his application, On April 26, 2006, *272 days after submitting all required documents to USCIS*, Petitioner made an official "Status Inquiry" with USCIS. USCIS replied: "*The I-485 in question is still pending FBI name check clearance and fingerprint process.*" (**Exhibit B**).

17. Additional Status Inquiry with USCIS was made by Petitioner on July 12, 2007, 714 days *after submitting all documents to USCIS*. USCIS reply was : “*The processing of your case has been delayed. A check of our record establishes that your case is not yet ready for decision, as the required investigation into your background remains open.*” (**Exhibit B**).

18. Daotang Yang has always complied with immigration and civil laws, has never been arrested or convicted of a crime and has never presented a security risk to the United States. Daotang Yang has been lawfully present in the United States for over 9 years since Jan 1998.

19. As of October 17, 2007, 811 days *after submitting all documents to USCIS*, no resolution on Daotang Yang’s application has been reached so he is filing present Complaint with the California Northern District Court. This action challenges only the Defendants’ timeliness in adjudication of Petitioner’s application, not the granting or denial of that application.

20. Section 202 (8 U.S.C. § 1571) of the Title II of the American Competitiveness in Twenty-first Century Act of 2000 (AC21) clearly lays down the parameters of reasonableness in immigration adjudication, stating: “...It is the sense of Congress that the processing of an immigration benefit application should be completed not later than **180 days** after the initial filing of the application.”

21. Defendants are also required by 5 U.S.C. § 551 “within a reasonable time ... to conclude a matter presented... .”

22. Other District Courts have concluded in similar cases that petitioners have a clear right to have his or her application for lawful permanent residency status

adjudicated within a reasonable period of time. (*Yu v. Brown*, 36F. Supp. 2d 922, 925 (D.N.M. 1999); *Agbemapple v. INS*, No. 97 C 8457, 1988 WL 292441 (N.D. Ill. May 18, 1988)). For instance, in *Yu*, where petitioner sought a writ of mandamus to force INS to act on her application for lawful permanent residence two and one half years after she applied, the court concluded that Yu's petition properly stated a claim for mandamus. Also in *Elkhatib v. Bulger*, No. 04-22407-CIV-SEITZ/MCALILEY (S.D.F.2004) court found that Respondents have a non-discretionary duty to process Petitioner's application within a reasonable period of time.

VI. INJURY TO PETITIONER

23. The Petitioner's application to become permanent resident of the United States is pending before USCIS for *over 811 days*.

24. Petitioner is waiting and will continue to wait for a significant amount of time for a decision on his AOS application. His status in the United States has been and will continue to be uncertain. Petitioner could not plan ahead because he has not known and does not know when he becomes a permanent resident.

25. Petitioner has lost a significant work time while pursuing his adjustment of status application, making inquiries with USCIS, meeting with lawyers, applying for yearly work authorization renewals, reporting for fingerprinting, and otherwise pursuing his delayed permanent residency.

26. Petitioner has to obtain yearly work authorization permits while his AOS application is pending. This results in significant out-of-pocket expenses (EAD

renewal cost is \$175/year and Petitioner has already applied for three of them), including attorneys' fees, inconvenience, and loss of wages.

27. Due to delays in adjudication of Petitioner's permanent residency application, Petitioner's naturalization (to become a U.S. Citizen) has been delayed. Therefore Respondents' unreasonable delay in adjudicating AOS application deprived Petitioner for longer time of citizenship benefits like a right to vote and fully participate in our democracy; receive a United States passport; travel freely into and out of the United States; hold a job that is restricted to United States citizens; run for public office. Also Petitioner has been and will continue to be unable to petition for his family members to immigrate to the United States as immediate relatives.

28. Petitioner rights to due process of law and equal protection under the Fifth Amendment to the United States Constitution have been and are being violated and will continue to be violated by Defendants' failures as described herein.

VII. GROUNDS FOR RELIEF

29. Defendants, despite having a duty to act within reasonable time, have failed to process and adjudicate Petitioner's application for permanent residency in a timely manner.

30. Defendant USCIS' duty to process and adjudicate Petitioner's application "within a reasonable time" (*within 811 days*) is a non-discretionary duty mandated by federal and judicial precedent.

31. Defendant USCIS' conduct in failing to process Petitioner's application and adjudicate his case in a reasonably timely manner has caused unnecessary and injurious delays to Petitioner, in violation of his rights.

Count I.
Mandamus Action
28 U.S.C. § 1651

32. Petitioner incorporates all allegations made hereinabove that are pertinent to this Court.

33. Defendants are charged with the mandatory responsibility of administering and implementing the Immigration and Nationality Act.

34. Defendants bear sole responsibility for timely adjudication of AOS application and for orderly attendant procedures.

35. Defendants have failed to discharge their mandated duties.

36. As a result, Petitioner has suffered and continues to suffer irreparable harm and damages entitling him to declaratory, injunctive and other relief.

37. Petitioner has exhausted all possible administrative remedies and there exists no other adequate remedy.

38. Strong humanitarian factors favor granting of Mandamus relief.

Count II.

**Administrative Procedures Act
5 U.S.C. § 555 and 5 U.S.C. § 702 et seq.**

39. Petitioner incorporates all allegations made hereinabove that are pertinent to this Court.

40. By failing to render timely decision on Petitioner's application, Defendants have violated the Administrative Procedures Act and this constitutes agency action that is arbitrary and capricious, and not in accordance with law. 5 U.S.C. § 701 et seq., 702, 706 ("agency action unlawfully withheld or unreasonably delayed" under § 706(1)) and 5 U.S.C. § 555.

41. Defendants have failed to discharge their mandated official duties.

42. As a result, Petitioner has suffered and continues to suffer irreparable harm and damages entitling him to declaratory, injunctive and other relief.

**Count III.
Declaratory Judgment Act
28 U.S.C. § 2201**

43. Petitioner incorporates all allegations made hereinabove that are pertinent to this Court.

44. Petitioner contend that Defendants' actions and decisions relating to delays in AOS adjudication and attendant procedures are unconstitutional, violate the INA, and are arbitrary and capricious and seek a declaration to that effect under 28 U.S.C. § 2201.

45. Defendants have failed to discharge their mandated official duties.

46. As a result, Petitioner has suffered and continues to suffer irreparable harm and damages entitling him to declaratory, injunctive and other relief.

Count IV.

Equal Access to Justice Act

5 U.S.C. § 504 and 28 U.S.C. § 2412

47. Petitioner incorporates all allegations made hereinabove that are pertinent to this Court.

48. If prevails, Petitioner will seek attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

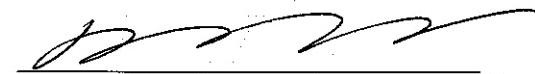
VIII PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that the honorable Court grant the following relief:

- i. Assume jurisdiction over this cause;
- ii. Declare that the Defendants' failure to act is illegal, arbitrary, capricious and abuse of discretion;
- iii. Compel Defendants and those acting under them to perform their duty to act upon the Petitioner's application for permanent residency;
- iv. Grant attorneys fees and costs of court;
- v. Grant such other and further relief as this Court deems just and appropriate.

Dated: October 17, 2007

RESPECTFULLY SUBMITTED,



Daotang Yang
Petitioner, Pro Se
21073 Red Fir Ct
Cupertino, CA 95014
Cell: (408)5063826
E-mail: daotangy@yahoo.com

IX EXHIBITS

EXHIBIT A USCIS Receipt Notices, transfer notice. USCIS Nebraska Service Center Processing dates posted October 17, 2007

EXHIBIT B USCIS Letters regarding case status inquiries

EXHIBIT A

USCIS Receipt Notices

**USCIS Nebraska Service Center Processing dates
posted October 17, 2007**

UNITED STATES OF AMERICA

RECEIPT NUMBER WAC-05-212-50007		CASE TYPE I485 - APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS
RECEIVED DATE July 25, 2005	PRIORITY DATE	APPLICANT A99 040 008 YANG, DAOTANG
NOTICE DATE July 28, 2005	PAGE 1 of 1	
AMY REINHORN MORGAN LEWIS & BOCKIUS LLP RE: DAOTANG YANG ONE MARKET SPEAR ST TOWER SAN FRANCISCO CA 94105		Notice Type: Receipt Notice Amount received: \$ 385.00 Section: Other basis for adjustment

Receipt notice - If any of the above information is incorrect, call customer service immediately.

Processing time - Processing times vary by kind of case.

- You can check our current processing time for this kind of case on our website at uscis.gov.
- On our website you can also sign up to get free e-mail updates as we complete key processing steps on this case.
- Most of the time your case is pending the processing status will not change because we will be working on others filed earlier.
- We will notify you by mail when we make a decision on this case, or if we need something from you.
- If you move while this case is pending, call customer service when you move.
- Processing times can change. If you don't get a decision or update from us within our current processing time, check our website or call for an update.

If you have questions, check our website or call customer service. Please save this notice, and have it with you if you contact us about this case.

Notice to all customers with a pending I-130 petition - USCIS is now processing Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 relative petition is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. This process will allow USCIS to concentrate resources first on cases where visas are actually available. This process should not delay the ability of one's relative to apply for an immigrant visa or adjustment of status. Refer to www.state.gov/travel <<http://www.state.gov/travel>> to determine current visa availability dates. For more information, please visit our website at www.uscis.gov or contact us at 1-800-375-5283.

Always remember to call customer service if you move while your case is pending. If you have a pending I-130 relative petition, also call customer service if you should decide to withdraw your petition or if you become a U.S. citizen.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U. S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAGUNA NIGUEL CA 92607-0111
Customer Service Telephone: (800) 375-5283



UNITED STATES OF AMERICA		
RECEIPT NUMBER WAC-05-212-50151	CASE TYPE I140 IMMIGRANT PETITION FOR ALIEN WORKER	
RECEIPT DATE July 28, 2005	PRIORITY DATE May 24, 2002	PETITIONER BROCADE COMMUNICATIONS SYSTEMS INC
NOTICE DATE September 21, 2005	PAGE 1 of 1	BENEFICIARY A099 040 008 YANG, DAOTANG
AMY REINHORN MORGAN LEWIS & BOCKIUS LLP RE: BROCADE COMMUNICATIONS SYSTEMS ONE MARKET SPEAR ST TOWER SAN FRANCISCO CA 94105	Notice Type: Approval Notice Section: Mem of Profession w/Adv Deg, or of Exceptn'l Ability Sec.203 (b) (2)	
<p>The above petition has been approved. The person this petition is for will be notified separately when a decision is reached on his or her pending adjustment of status application.</p> <p>The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.</p> <p>THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.</p>		

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U. S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER

P. O. BOX 30111

LAGUNA NIGUEL CA 92607-0111

Customer Service Telephone: (800) 375-5283



UNITED STATES OF AMERICA

RECEIPT NUMBER WAC-05-212-50007		CASE TYPE I-485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS
RECEIPT DATE July 28, 2005	PRIORITY DATE	APPLICANT A099 040 008 YANG, DAOTANG
NOTICE DATE March 7, 2007	PAGE 1 of 1	
DAOTANG YANG 21073 RED FIR. CT. CUPERTINO CA 95014		Notice Type: Transfer Notice

This is to advise you that in order to speed up processing we have transferred the above case to the following USCIS office for processing:

Nebraska Service Center, P.O. BOX 82521, Lincoln, NE 68501-2521

That office will notify you of the decision made on the application or petition.

Please read the following information before attempting to contact the National Customer Service Center for an update:

Please refer to the USCIS processing dates webpage, via the USCIS home webpage <http://www.uscis.gov/graphics/index.htm>, to locate the processing dates for the specific service center that your case was transferred to. If the service center is within processing time for your particular application or petition, USCIS cannot provide an update on your case. If the service center is outside of processing time for your particular application or petition, please call Customer Service at 1-800-375-5283 to request an update.

Please read the following information if you submitted a Premium Processing application or petition:

Please contact the Premium Processing phone number at 1-866-315-5718 for inquiries. The 15-day Premium Processing clock does not start until the correct office receives the application or petition.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAGUNA NIGUEL CA 92607-0111
Customer Service Telephone: (800) 375-5283



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U.S. Citizenship and Immigration Services Nebraska Service Center Processing Dates Posted October 15, 2007

Notice: U.S. Citizenship and Immigration Services (USCIS) has improved the reporting procedure for processing times of immigration benefit applications. In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service level goals we will report the USCIS service level commitment. For example, when our service level goal is to process a particular kind of case within six months, and if our processing time is six months or less, we will show "6 months".

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

There are several important exceptions to the processing times shown below:

- Case processing will be delayed if we must ask you for more evidence or information. If we ask for missing required initial evidence, count the processing time from when we receive that missing evidence.
- The case processing timeframe will start over if a customer doesn't appear for an interview or asks that it be rescheduled.

What if I have a problem or have questions about a case?

We offer a variety of services after you file. For example, for most kinds of cases you can check the status of your case online.

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our fact sheet –

Case Services - How do I... know what kind of services are available to me after I file my application or petition?

One additional point about these projections. They are the time to complete processing and mail the actual notice and/or document. If you check case status online and see that your case has been approved, and you haven't yet received your approval notice or document in the mail, we ask that you wait thirty days from the approval date before contacting us. That is because it may take that long before it is returned to us as undeliverable. You can also print the case status online answer for your records.

Service Center Processing Dates for **Nebraska Service Center** Posted October 15, 2007

Form	Title	Classification or Basis for Filing	Processing Timeframe
I-90	Application to Replace Permanent Resident Card	Initial issuance or replacement	November 06, 2006
I-90	Application to Replace Permanent Resident Card	10-year renewal	December 27, 2005
I-90A	Application to Replace Permanent Resident Card	Initial issuance or replacement for Special Agricultural Workers (SAW)	6 Months
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	Initial issuance or replacement of a Form I-94	3 Months
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Visa to be issued abroad	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Change of status in the U.S.	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Extension of stay in the U.S.	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	H-2A - Temporary workers	15 Days
I-129	Petition for A Nonimmigrant Worker	H-2B - Other temporary workers	30 Days
I-129	Petition for A Nonimmigrant Worker	H-3 - Temporary trainees	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	L - Intracompany transfers	30 Days
I-129	Petition for A Nonimmigrant Worker	Blanket L	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	O - Extraordinary ability	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	P - Athletes, artists, and entertainers	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	R - Religious occupation	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	TN - North American Free Trade Agreement (NAFTA) professional	May 14, 2006
I-131	Application for Travel Document	Permanent resident applying for a re-entry permit	May 07, 2007
I-131	Application for Travel Document	Refugee or asylee applying for a refugee travel document	May 07, 2007
I-131	Application for Travel Document	Haitian Refugee Immigrant Fairness Act (HRIFA) principal applying for advance parole	July 02, 2007
		Haitian Refugee Immigrant Fairness Act	

I-131	Application for Travel Document	(HRIFA) dependent applying for advance parole	January 14, 2007
I-131	Application for Travel Document	All other applicants for advance parole	July 02, 2007
I-140	Immigrant Petition for Alien Worker	Extraordinary ability	January 26, 2007
I-140	Immigrant Petition for Alien Worker	Outstanding professor or researcher	January 10, 2007
I-140	Immigrant Petition for Alien Worker	Multinational executive or manager	December 04, 2006
I-140	Immigrant Petition for Alien Worker	Schedule A Nurses	October 30, 2006
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability	February 06, 2007
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability requesting a National Interest Waiver	August 01, 2006
I-140	Immigrant Petition for Alien Worker	Skilled worker or professional	November 14, 2006
I-140	Immigrant Petition for Alien Worker	Unskilled worker	October 20, 2006
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal	Readmission after deportation or removal	6 Months
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	All other special immigrants	6 Months
I-485	Application to Register Permanent Residence or to Adjust Status	Employment-based adjustment applications	December 19, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Based on grant of asylum more than 1 year ago	November 13, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Based on refugee admission more than 1 year ago	November 09, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Under the Haitian Refugee Immigrant Fairness Act (HRIFA)	April 15, 2007
I-485	Application to Register Permanent Residence or to Adjust Status	Under the Indochinese Adjustment Act	6 Months
I-539	Application to Extend/Change Nonimmigrant Status	Change of status to H or L dependents	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change status to the F or M academic or vocational student categories	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change Status to the J exchange visitor category	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other change of status applications	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of stay for H and L dependents	May 09, 2007
	Application to Extend/Change	Extension of Stay for F or M academic or	

I-539	Nonimmigrant Status	vocational students	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for J exchange visitors	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other extension applications	May 09, 2007
I-612	Application for Waiver of the Foreign Residence Requirement	Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution	February 28, 2007
I-730	Refugee/Asylee Relative Petition	Petition for accompanying family members of a refugee or an asylee	September 01, 2006
I-751	Petition to Remove the Conditions on Residence	Removal of lawful permanent resident conditions (spouses of U.S. citizens and lawful permanent residents)	January 03, 2007
I-765	Application for Employment Authorization	Based on an approved asylum application [(a)(5)]	30 Days
I-765	Application for Employment Authorization	Based on a request by a qualified F-1 academic student. [(c)(3)]	11 Weeks
I-765	Application for Employment Authorization	Based on a pending asylum application [(c)(8)]	30 Days
I-765	Application for Employment Authorization	Based on a pending I-485 adjustment application [(c)(9)]	July 02, 2007
I-765	Application for Employment Authorization	All other applications for employment authorization	July 27, 2007
I-817	Application for Family Unity Benefits	Voluntary departure under the family unity program	6 Months
I-824	Application for Action on an Approved Application or Petition	To request further action on an approved application or petition	January 18, 2007

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EXHIBIT B

USCIS Letters regarding case status inquiries

U.S. Department of Homeland Security
 Nebraska Service Center
 P.O. Box 82521
 Lincoln, NE 68501-2521



**U.S. Citizenship
and Immigration
Services**

Tuesday, August 28, 2007

DAOTANG YANG
 21073 RED FIR CRT.
 CUPERTINO CA 95014

Dear Daotang Yang:

On 07/12/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	Applicant or Petitioner
Attorney Name:	Information not available
Case type:	I485
Filing date:	07/25/2005
Receipt #:	WAC-05-212-50007
Beneficiary (if you filed for someone else):	Information not available
Your USCIS Account Number (A-number):	Information not available
Type of service requested:	Outside Normal Processing Times

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security
California Service Center
P.O. Box 30111
Laguna Niguel, CA 92607-0111



**U.S. Citizenship
and Immigration
Services**

Friday, April 28, 2006

DAOTANG YANG
21073 RED FIR CT.
CUPERTINO CA 95014

Dear daotang yang:

On 04/26/2006 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:

The applicant

Attorney Name:

Information not available

Case type:

I485

Filing date:

Information not available

Receipt #:

WAC-05-212-50007

Beneficiary (if you filed for someone else):

yang, daotang

Your USCIS Account Number (A-number):

A99040008

Type of service requested:

Change of Address

The status of this service request is:

The I-485 at question is still pending FBI name check clearance and fingerprint process.

Once the file has been cleared by FBI and fingerprints cleared, the file will be adjudicated. The Service has NO control over how long it takes FBI to clear the case.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

One final note: When you called you or your representative we asked that we update your address on your pending case for the purpose of processing. We have updated your address. Your address now appears on your application or petition as the address shown above.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services